

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

Civil No : 04-372-E

v

ROBERT JAMES HAZLETT

Defendant

MOTION FOR DEFAULT AND DEFAULT JUDGMENT

AND NOW, comes the Plaintiff, the United States of America, acting through the United States Department of Agriculture, Rural Housing Service, by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania and the Bernstein Law Firm, P C and pursuant to Rules 55(a) and 55(b)(2) of the Federal Rules of Civil Procedure, respectfully moves the Court to enter Default and Judgment by Default in favor of Plaintiff, the United States of America, and against Defendant Robert James Hazlett. In further support of Its Motion, the United States respectfully avers as follows:

1. On December 20, 2004, Plaintiff, the United States of America, filed a Complaint in Mortgage Foreclosure against the Defendant Robert James Hazlett.
2. On January 7, 2005, Defendant, Robert James Hazlett, was mailed a copy of the Complaint and a Notice of Lawsuit and Request for Waiver of Service of Summons
3. Defendant failed to execute the Waivers of Services of Summons

4. Because Defendant did not execute the Waiver of Service of Summons, Plaintiff attempted to Serve Defendant, Robert James Hazlett, through the United States Marshal's Office

5. The U.S. Marshal's Office returned an unexecuted return of service as to defendant, Robert James Hazlett, on March 3, 2005.

6. Thereafter, Plaintiff filed a Motion for Enlargement of Time to serve the Complaint and Summons on Defendant, Robert James Hazlett. Plaintiff's Motion was granted on April 26, 2005 and an Order was issued directing Plaintiff to serve Defendant within 120 days.

7. Contemporaneously, Plaintiff filed a Motion for Alternate Service to serve the Complaint and Summons on Defendant, Robert James Hazlett.

8. Plaintiff's Motion was granted on April 26, 2005 and an Order was issued directing Plaintiff to serve Defendant, Robert James Hazlett, by posting the subject property.

9. Plaintiff served Defendant, Robert James Hazlett, with the Complaint and Summons by posting the property known as 5903 Route 322, Franklin, PA 16323 on June 7, 2005 through the United States Marshal Service

10. Defendant, Robert James Hazlett, has not answered or asserted any defense in this action as provided by the Federal Rules of Civil Procedure

11. To the best of Plaintiff's knowledge, information and belief, Defendant, Robert James Hazlett, is not an infant or incompetent person and is not in the military service of the United States of America

12 The amounts due Plaintiff from Defendant on the Note and Mortgage are as follows:

| | |
|--|-------------|
| Principal and Advances..... | \$28,919 08 |
| Interest due May 31, 2004..... | \$ 6,495 88 |
| Interest from June 1, 2004 through August 31, 2005 | |
| At the daily rate of \$7.13..... | \$ 3,258 41 |
| Interest Credit Subject to Recapture..... | \$ 1,182.61 |
| Total | \$39,855.98 |

together with interest at 9% per annum to the date of Judgment, plus interest accruing from the date of Judgment at the legal rate and costs

WHEREFORE, Plaintiff, the United States of America, respectfully request the Court:

- a. Grant Plaintiff's Motion and, accordingly, enter Default and Judgment against Defendant;
- b. That the Plaintiff be paid the amount adjudged to be due and owing Plaintiff, with Interest thereon to the time of such payment, together with costs and expenses incurred by this action and by any sale of the subject property;
- c. That a judgment in personam be entered against the Defendant as to any deficiency remaining for the balance due on the default judgment as a deduction of monies received from the sale of the subject property;
- d. Expose the subject property to sale for the purpose of satisfying Plaintiff's Judgment; and

e Grant Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney,

A handwritten signature in black ink, appearing to read 'Lora A. Gibson', is written over a horizontal line.

LORA A. GIBSON, ESQUIRE
PA I.D. No.: 68013
Bernstein Law Firm, P.C.
Suite 2200 Gulf Tower
Pittsburgh, PA 15219

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

Civil No 04-372-E

v.

ROBERT JAMES HAZLETT

Defendant,

JUDGMENT

AND NOW, to wit, this _____ day of _____, 2005, after presentation and consideration of the foregoing Motion for Default and Default Judgment, heretofore filed by the Plaintiff, the United States of America, it is hereby ORDERED that said Motion is GRANTED

IT IS FURTHER ORDERED that Default is hereby entered against Defendant, for failure of answer and Judgment by Default is hereby entered against said Defendant and in favor of Plaintiff, the United States of America, as follows:

| | |
|--|-------------|
| Principal and Advances | \$28,919.08 |
| Interest due May 31, 2004..... | \$ 6,495.88 |
| Interest from June 1, 2004 through August 31, 2005 | |
| At the daily rate of \$7.13. | \$ 3,258.41 |
| Interest Credit Subject to Recapture | \$ 1,182.61 |
| Total | \$39,855.98 |

together with interest at 9% per annum to the date of Judgment, plus interest accruing from the date of Judgment at the legal rate and costs.

It is further ORDERED that the subject property hereby shall be and is exposed for the purpose of satisfying Plaintiffs' Judgment.

It is further ORDERED that a deficiency judgment is entered for the balance due and any on the default judgment after deduction of monies received as a result of the sale of the subject property.

It is further ORDERED that Plaintiff shall be paid the amount adjudged due Plaintiff with interest thereon to the time of such payment, together with costs of this action and the expenses of sale.

United States District Court Judge